



Reprinted
February 26, 2004

ENGROSSED HOUSE BILL No. 1394

DIGEST OF HB 1394 (Updated February 25, 2004 6:02 pm - DI 106)

Citations Affected: IC 9-30; noncode.

Synopsis: Driving while intoxicated and causing death. To honor the memory of Representative Roland Stine, provides that a person at least 21 years of age who causes the death of another person while operating a motor vehicle with an alcohol concentration of at least 0.15 gram of alcohol per: (1) 100 milliliters of the person's blood or 210 liters of the person's breath; or with a Schedule I or II controlled substance in the blood; commits a Class B felony. Provides that a person who causes the death of another person while having a BAC of between .08% and .15% , and who knowingly operated the motor vehicle with driver's license that was suspended or revoked based on a previous conviction for OWI commits a Class B felony. Provides that a person at least 21 years of age who operates while intoxicated a motor vehicle in which at least one passenger is less than 18 commits a Class D felony. Requires lifetime license suspension of a person with two convictions for OWI causing death.

Effective: July 1, 2004.

Bosma, Oxley, Dvorak, Stutzman

(SENATE SPONSORS — YOUNG R MICHAEL, MRVAN, JACKMAN)

January 20, 2004, read first time and referred to Committee on Courts and Criminal Code.
January 29, 2004, reported — Do Pass.
February 2, 2004, read second time, ordered engrossed.
February 3, 2004, engrossed.
February 4, 2004, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 9, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.
February 17, 2004, amended, reported favorably — Do Pass.
February 25, 2004, read second time, amended, ordered engrossed.

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EH 1394—LS 6917/DI 105+



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1394

A BILL FOR AN ACT to amend the Indiana Code concerning
motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-3, AS AMENDED BY P.L.291-2001,
2 SECTION 222, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who violates section 1
4 or 2 of this chapter commits a Class D felony if:

5 (1) the person has a previous conviction of operating while
6 intoxicated ~~and~~

7 (2) ~~the previous conviction of operating while intoxicated that~~
8 occurred within the five (5) years immediately preceding the
9 occurrence of the violation of section 1 or 2 of this chapter; ~~or~~

10 (2) **the person:**

11 (A) **is at least twenty-one (21) years of age;**

12 (B) **violates section 1(b) or 2(b) of this chapter; and**

13 (C) **operated a vehicle in which at least one (1) passenger**
14 **was less than eighteen (18) years of age.**

15 SECTION 2. IC 9-30-5-5, AS AMENDED BY P.L.175-2001,
16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another

EH 1394—LS 6917/DI 105+



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person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol **but less than fifteen-hundredths (0.15) gram of alcohol** per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's ~~body~~; **blood**; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter, **or if the person knowingly operated the motor vehicle with a driver's license that was suspended or revoked for a previous conviction for operating a vehicle while intoxicated under IC 9-30-5.**

(b) **A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:**

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who violates subsection (a) **or (b)** commits a separate offense for each person whose death is caused by the violation of subsection (a) **or (b)**.

~~(c)~~ **(d)** It is a defense under subsection (a)(2) **or subsection (b)(2)** that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 3. IC 9-30-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If it appears from the records maintained in the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

(1) **except as provided in subdivision (2)**, ten (10) years if the

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1 person is a habitual violator under section 4(a) of this chapter;
 2 **(2) life if the person is a habitual violator under section 4(a) of**
 3 **this chapter and has at least two (2) violations under section**
 4 **4(a)(4) through 4(a)(7) of this chapter;**
 5 **(3)** ten (10) years if the person is a habitual violator under section
 6 4(b) of this chapter; or
 7 ~~(3)~~ **(4)** five (5) years if the person is a habitual violator under
 8 section 4(c) of this chapter.

9 (c) The notice must inform the person that the person may be
 10 entitled to relief under section 6 of this chapter or may seek judicial
 11 review of the person's suspension under this chapter.

12 SECTION 4. [EFFECTIVE JULY 1, 2004] **IC 9-30-5-5, as**
 13 **amended by this act, applies only to offenses committed after June**
 14 **30, 2004.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1394, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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EH 1394—LS 6917/DI 105+



SENATE MOTION

Madam President: I move that Senator Mrvan be added as cosponsor of Engrossed House Bill 1394.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1394, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "chapter" delete "." and insert ", **or if the person knowingly operated the motor vehicle with a driver's license that was suspended or revoked for a previous conviction for operating a vehicle while intoxicated under IC 9-30-5.**"

Page 1, line 16, before "who" insert "**at least twenty-one (21) years of age**".

and when so amended that said bill do pass.

(Reference is to HB 1394 as printed January 30, 2004.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1394 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-30-5-3, AS AMENDED BY P.L.291-2001, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating while intoxicated ~~and~~

~~(2) the previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or~~

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age."

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 2. IC 9-30-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If it appears from the records maintained in the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

(1) **except as provided in subdivision (2),** ten (10) years if the person is a habitual violator under section 4(a) of this chapter;

(2) life if the person is a habitual violator under section 4(a) of this chapter and has at least two (2) violations under section 4(a)(4) through 4(a)(7) of this chapter;

(3) ten (10) years if the person is a habitual violator under section 4(b) of this chapter; or

~~(3)~~ **(4) five (5) years if the person is a habitual violator under section 4(c) of this chapter.**

(c) The notice must inform the person that the person may be entitled to relief under section 6 of this chapter or may seek judicial review of the person's suspension under this chapter."

EH 1394—LS 6917/DI 105+



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Renumber all SECTIONS consecutively.
(Reference is to EHB 1394 as printed February 18, 2004.)

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Engrossed House Bill 1394 be amended to read as follows:

Page 2, line 3, after "vehicle" insert "**(1)**".

Page 2, line 6, delete "(1)" and begin a new line double block indented and insert:

"(A)".

Page 2, line 7, delete "(2)" and begin a new line double block indented and insert:

"(B)".

Page 2, line 7, after "breath;" insert "**or**

(2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;".

Page 2, line 12, after "subsection (a)(2)" insert "**or subsection (b)(2)**".

(Reference is to EHB 1394 as printed February 18, 2004.)

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